

NO. 28639

INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I

K. HAMAKAHO
CLERK, APPELLATE COURTS
STATE OF HAWAII

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FILED

HAWAII CONFERENCE OF THE UNITED CHURCH OF CHRIST,
a Hawai'i non-profit corporation, Plaintiff-Appellee,

v.

MAUNA ZIONA CHURCH aka KEKAHA PROTESTANT CHURCH, MAUNA ZIONA,
a Hawai'i non-profit corporation, Defendants, and
NORMAN A. KEANAAINA, Defendant-Appellant.

APPEAL FROM CIRCUIT COURT OF THE THIRD CIRCUIT
(Civ. No. 06-1-00113K)

ORDER DISMISSING APPEAL

(By: Watanabe, Presiding J., Nakamura and Fujise, JJ.)

Upon review of the record, it appears that we lack jurisdiction over Defendant/Third-Party Plaintiff/Appellant Norman A. Keanaaina's (Appellant Keanaaina) appeal from the Honorable Elizabeth A. Strance's May 31, 2007 "Order Granting Plaintiff's Renewed Motion for Preliminary Injunction Filed March 1, 2007" because the May 31, 2007 order is not an appealable final order, and the circuit court has not entered a separate, final judgment that resolves all claims pursuant to Rule 58 of the Hawai'i Rules of Civil Procedure (HRCP) and the holding in Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994).

HRS § 641-1(a) (Supp. 2006) authorizes appeals to the intermediate court of appeals from "final judgments, orders, or decrees[.]" Furthermore, under HRCP Rule 58, "[a]n appeal may be

taken . . . only after the orders have been reduced to a judgment and the judgment has been entered in favor of and against the appropriate parties pursuant to HRCP [Rule] 58[.]" Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i at 119, 869 P.2d at 1338. "An appeal from an order that is not reduced to a judgment in favor of or against the party by the time the record is filed in the supreme court will be dismissed." Id. at 120, 869 P.2d at 1339.

The May 31, 2007 order is not an appealable final order. Although the circuit court entered a February 28, 2007 summary judgment order that resolved some of the parties' claims, the circuit court has not yet resolved Count II of Plaintiff-Appellee Hawaii Conference of the United Church of Christ's complaint, nor has the circuit court resolved Appellant Keanaaina and Defendant/Third-Party Plaintiff/ Appellee Mauna Ziona Church's third-party complaint against Third-Party Defendants/ Appellees Chun, Kerr, Dodd, Beaman & Wong, LLP, Leroy E. Colombe, and Andrew R. Bunn. Although HRCP Rule 54(b) authorizes the entry of a judgment on less than all of the parties' claims, the circuit court has not reduced any of its dispositive orders to a separate judgment in favor of and against the appropriate parties pursuant to HRCP Rule 54(b). Absent an appealable final judgment, we lack jurisdiction over this appeal. Therefore,

IT IS HEREBY ORDERED that the appeal in appellate court case number 28639 is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, October 4, 2007.

Cornelia K. A. Watanabe

Presiding Judge

Christine Nakamura

Associate Judge

Auna R. S. Fijian

Associate Judge